

Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 2 – Senedd

Meeting date:

6 October 2014

Meeting time:

13.00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

1 Introduction, apologies, substitutions and declarations of interest

2 Evidence in relation to the Financial Education and Inclusion (Wales)

Bill (Pages 1 – 23)

(Indicative time 1.00pm)

Lesley Griffiths AM, Minister for Communities and Tackling Poverty

CLA(4)–24–14 – Paper 1 – Letter from the Minister, 16 September 2014

CLA(4)–24–14 – Paper 2 – Letter from the Bethan Jenkins AM, Member in Charge

CLA(4)–24–14 – Research Service Briefing

CLA(4)–24–14 – Legal Advice Note

3 Evidence in relation to the Well-being and Future Generations (Wales)

Bill (Pages 24 – 53)

(Indicative time 1.30pm)

Carl Sargeant AM, Minister for Natural Resources

CLA(4)-24-14 – Paper 3 – Letter from the Minister,
CLA(4)-24-14 – Paper 4 – Statement of Policy Intent
CLA(4)-24-14 – Research Service Briefing
CLA(4)-24-14 – Legal Advice Note
CLA(4)-24-14 – Legal Advice Note – Well-being

4 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3 (Page 54)

CLA(4)-24-14 – Paper 5 – Statutory instruments with clear reports

Affirmative Resolution Instruments

CLA448 – The Town and Country Planning (Determination of Procedure) (Wales) Order 2014

Affirmative procedure; Date made: Not Stated; Date laid: 22 September 2014;
Coming into force in accordance with article 1(2).

5 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

(vi) the committee is deliberating on the content, conclusions or recommendations of a report it proposes to publish; or is preparing itself to take evidence from any person;

(ix) any matter relating to the internal business of the committee, or of the Assembly, is to be discussed.

Holiday Caravan Sites (Wales) Draft Report (Pages 55 – 78)

CLA(4)-24-14 – Paper 6 – Draft Report

Making Laws in the Fourth Assembly (Pages 79 – 93)

CLA(4)-24-14 – Paper 7 – Summary of Written Evidence

Paper to Note (Pages 94 – 168)

CLA(4)-24-14 – Paper 8 – Analysis of Assembly Acts



Llywodraeth Cymru
Welsh Government

Lesley Griffiths AC / AM
Y Gweinidog Cymunedau a Threchu Tlodi
Minister for Communities and Tackling Poverty

David Melding AM
Chair of the Constitutional and
Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

16 September 2014

Dear David

Financial Education and Inclusion (Wales) Bill

Thank you for your letter of 22 July inviting the Government to give evidence to the Constitutional and Legislative Affairs Committee on 22 September. In advance of my appearance before the Committee, I am grateful for the opportunity to provide you with my written evidence on the Bill.

I have copied this letter, and my evidence, to the Chair of the Children, Young People and Education Committee.

*Regards
Lesley*

Lesley Griffiths AC / AM
Y Gweinidog Cymunedau a Threchu Tlodi
Minister for Communities and Tackling Poverty

Constitutional and Legislative Affairs Committee: consideration of the Financial Education and Inclusion (Wales) Bill

Introduction

1. I understand the main intention of the Bill is preventative, namely to address the position where many people in Wales are falling into financial difficulty due to a lack of knowledge and skills in managing money. Whilst I fully support the aim of strengthening financial education and financial literacy, I do not consider the proposals in the Bill will result in anything additional to what is currently delivered. Indeed I am concerned the Bill may deflect from frontline delivery as it introduces new processes and, potentially, additional bureaucracy without a clear explanation of the measurable outcomes being sought.

Existing legislation

2. It is the case almost all the proposals in the Bill could be delivered using existing legislation. For example a Local Authority could use its general well-being powers in section 2(1) of the Local Government Act 2000 (“the 2000 Act”) to produce a strategy to promote financial inclusion. This provides every Local Authority in Wales with the power to do anything they consider likely to achieve the promotion or improvement of the economic, social or environmental well-being of their area. Arguably the promotion of financial inclusion would fall into promoting the economic and social well-being of their area. In addition, section 3(5) of the 2000 Act requires a Local Authority to have regard to any guidance issued by the Welsh Ministers before exercising their power. Guidance could potentially deal with the promotion of financial inclusion.
3. Local Authorities also currently have a duty under the Local Government (Wales) Measure 2009 (“the Measure”) to create a community strategy relating to long term objectives for improving the social, economic and environmental well-being of the area.
4. The Well-being of Future Generations (Wales) Bill (“the Future Generations Bill”) which has been recently introduced seeks to repeal provisions relating to community strategies and proposes to make provision in relation to new local well-being plans prepared by public service boards. Whilst the Future Generations Bill may be subject to amendment as part of the Assembly’s consideration, a number of the provisions in the Bill, as introduced, could be used by Local Authorities to promote financial inclusion.
5. The law on the curriculum in Wales is set out in Part 7 of the Education Act 2002 (“the 2002 Act”); section 101 of the 2002 Act sets out the requirements of the Basic Curriculum in Wales. That Basic Curriculum comprises of a number of different elements including the National Curriculum for Wales. The National Curriculum includes the foundation phase, the second, third and fourth key stages and the local curriculum. The specific subjects that form part of the National Curriculum for Wales are set out in sections 105 and 106 of the 2002 Act. Those subjects are called the foundation and core subjects.

6. There is a power in section 108 of the 2002 Act for the Welsh Ministers to set out by way of subordinate legislation areas of learning, desirable outcomes, educational programmes assessment arrangements for the foundation phase. That section also provides a power for the Welsh Ministers to set out in subordinate legislation programmes of learning, attainment targets and assessment arrangements for the foundation and core subjects in the key stages. In essence, this allows the Welsh Ministers to specify what must be taught and how it must be assessed. It is a means of being able to set out a complete National Curriculum for Wales. It is worth noting the power in section 108 of the 2002 Act was used to make the literacy and numeracy framework a statutory part of the National Curriculum.
7. Therefore, the Welsh Ministers already have extensive powers in existing education legislation to set out curriculum and assessment arrangements for the foundation phase and the key stages for the subjects required to be taught in those phases of education. The Welsh Ministers also have powers in existing education legislation to add new areas of learning to the foundation phase and new foundation subjects to the national curriculum for the key stages by way of subordinate legislation. Therefore, I consider sections 4 and 5 of the Bill to be an unnecessary duplication.
8. The Bill prescribes that financial inclusion strategy should include facilitating free access to online financial education and management services (whether through libraries or otherwise). However, Section 7 of the Public Libraries and Museums Act 1964 (“the 1964 Act”) imposes a duty on each library authority (which in practice is each Local Authority by virtue of section 4 of that Act) to provide a comprehensive and efficient library service; section 8 of the 1964 Act provides no charge shall be made by a library authority for library facilities made available by the authority, unless specified in regulations made by the Welsh Ministers¹ - currently the Library Charges (England and Wales) Regulations 1991 (“Library Charges Regulations”) make such provision.
9. 1964 Act and the Library Charges Regulations provide that libraries currently are able to charge for internet access. However, that position could change, given the Welsh Ministers have the executive powers to amend these Regulations which could be exercised so as to prevent libraries from charging for internet access.
10. The Fifth Framework of the Welsh Library Public Standards, issued by the Welsh Ministers, outlines the core entitlements public library services should provide. This includes “*free use of computers and the internet, including Wi-Fi.*”
11. Finally, there are existing legislative functions which have a similar effect as sections 7 and 11 of the Bill, namely provisions under the Children Act 1989 and the Children (Leaving Care) (Wales) Regulations 2001. There are also powers that will be able to be utilised under the Social Services and Well-Being (Wales) Act 2014 once that Act comes into force in respect of looked after children.

¹ Functions of the Secretary of State have been transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, and subsequently transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to Government of Wales Act 2006

Detail of the Bill

12. Notwithstanding my position that this Bill is unnecessary, I remain to be convinced the Bill as drafted, conveys the policy intentions set out in the accompanying Explanatory Memorandum. For example, a Local Authority's financial inclusion strategy must set out how the Authority will use its powers to promote the financial inclusion of individuals who live in its area. 'Financial inclusion' is defined as meaning access to financial services and financial education at a reasonable cost. The intended relationship between commercial entities and local authorities in the exercise of this provision is not clear; who decides that a financial service is at a reasonable cost, and will this have the effect of the local authority '*promoting*' commercial products? Will an Authority come under pressure from, for example, a bank for not promoting its latest loan products which the bank considers is available at a reasonable cost?
13. Turning to section 5 of the Bill, I believe the Member in Charge considers the Welsh Ministers could make an order under section 108(3) of the Education Act 2002 setting out a programme of study, attainment targets and assessment arrangements for financial education. However, whilst section 4 of the Bill proposes financial education be made a new requirement of the Basic Curriculum (by means of adding it to section 101 of the 2002 Act), it is not made an area of learning for the foundation phase or a foundation subject for any of the key stages by the Bill. The power to set out curriculum and assessment arrangements by way of an order made under section 108(3) only applies to areas of learning and foundation subjects.
14. Further, the Bill seeks to impose a duty to consult upon financial education orders, but to do so creates some unnecessary duplication as it does not take account of section 117 of the 2002 Act. This places a duty upon the Welsh Ministers to consult such persons as they think appropriate when making an order under section 108, setting out desirable outcomes or educational programmes for the foundation phase or attainment targets or programmes of study for the key stages.
15. I am concerned some of the provisions in section 9 relating to the content of a Local Authority's financial inclusion strategy are ambiguous. For example, I am not clear as to what the 'implications and effects of street-trading and cold-calling' are, and how they relate to financial literacy (which is not defined), and it is not clear whether free access to the internet as a whole is to be facilitated, or access only to financial education and management services. Nor is it clear what financial education is to be provided on-line and by whom.
16. A further example of the Bill as introduced not necessarily meeting the policy intention can be seen in section 12 of the Bill. Under section 12(1) an Authority must signpost where to find advice about financial management, and under section 12 (2) the Local Authority may provide advice about financial management where it thinks the advice is not reasonably available otherwise. Therefore, there could be a situation where the Local Authority thinks there is not advice reasonably available in its area, but decides not to provide any such

advice itself. As drafted, the Bill does not make provision which ensures reasonable advice is provided within an authority's area.

17. Under section 13, a Local Authority must take reasonable steps to ensure universities and further education corporations in its area provide advice about financial management to students. I am concerned about this provision. Local Authorities have no direct relationship with either universities or further education corporations which would, in turn, give them authority to enforce this requirement. It is not a duty which would be within an Authority's power to discharge, nor could the duty be enforced. I am also concerned with the ambiguity of the drafting of this section: there are no definitions of the terms used; further education corporations are just one type of further education institution, and it is not clear why other ones are not included; it touches on the fundamental principle of the independence and autonomy of higher education and its position at arms length from government. The Welsh Government believes there are other, more effective ways of focussing resources on financial education, for both higher and further education. There already exists a broad range of provisions of financial education at both higher and further educational institutions in Wales, as part of pastoral and welfare services.

Powers to make subordinate legislation

18. As outlined above, financial education and inclusion can already be addressed in existing legislation. For example, there are detailed skills relating to managing money and financial education within the literacy and numeracy framework which has been in force since September 2013. These were developed in partnership with the Welsh Financial Education Unit, and through open consultation.

19. Also we have recently consulted on revisions to be made to the existing programmes of study which are given legal effect by way of subordinate legislation. In particular the mathematics programme of study, which embeds the literacy and numeracy framework into it, and again, has a detailed set of skills statements relating to financial education within the 'Manage money' element. By way of example, this element contains statements regarding using cash, comparing costs from different retailers, discounts, budgeting, planning and tracking savings accounts, profit and loss, bank accounts, bank cards, VAT, saving, borrowing, interest rates, exchange rates and insurance. This will be published in October 2014, and made statutory from September 2015.

20. In the interest of thoroughness, I would like to comment on the provisions for subordinate legislation within the Bill:

- a. *Section 6(2) and (3)*: Section 6 appears to duplicate what is effectively already provided for in legislation. Section 20 of the Education Act 2005 places a duty on Estyn to keep the Welsh Ministers informed about the quality of education provided by schools, how far the education provided meets the needs of the pupils in those schools and the educational standards achieved by those schools. In addition, Estyn has a duty to provide the Welsh Ministers with advice on such matters as they specify.

Additionally, the power in the Bill to 'direct' the Inspector to prepare the report is very limited in nature, and there is no discretion for the Welsh Ministers to specify how the Inspector should conduct the report, or what should be included.

It is also unusual to prepare a progress report by way of direction. The Welsh Ministers have several direction-making powers in education legislation but they apply where the person directed (a school governing body or Local Authority) has acted unreasonably or unlawfully. In those cases the legislation provides such direction can be enforced by way of a court order. The Bill does not do this, and therefore it is unclear how it could be legally enforced or indeed if the policy intention behind the provision is that it should be enforced by way of court order. It is also not clear whether the policy intention is that the direction-making power to be exercisable by subordinate legislation or to be exercised more in the nature of executive instruction enforceable by the courts.

Finally, the approach does not seem to take proper account of the existing statutory scheme of powers and duties of Estyn set out in the Education Act 2005.

- b. *Section 9(2) and (3)*: under these provisions the Welsh Ministers may by way of regulations, made following consultation with Local Authorities, amend the prescribed content of a financial inclusion strategy made under section 9(1) of the Bill.

Notwithstanding my view such a strategy is unnecessary, to the extent that provision is made I consider that the proposal which allows the Welsh Ministers some flexibility in deciding what should be included in the strategy is acceptable. This is because it will allow account to be taken of the changing landscape; I do however have some concerns with the way the power has been drafted, given: the power in section 9(2) is very wide. The Assembly in passing the Bill should be satisfied it can contemplate what a power is likely to be used for. I would be interested in understanding how the Member in Charge of the Bill envisages this power should be used and in what circumstances, so the Government can consider whether the way this provision is drafted is suitable for its purpose.

- c. *Section 10*: this enables the Welsh Ministers to issue guidance about financial inclusion strategies and requires a Local Authority to have regard to any guidance issued. The Welsh Ministers already have the powers to promote financial inclusion and to require a local authority to have regard to any guidance issued by the Welsh Ministers before exercising their power, and therefore the power provided for in the Bill is unnecessary.

Commencement provisions

21. I have considered carefully the commencement provision in the Bill, and make the following observations:

- a. Firstly, it is proposed a commencement order containing solely commencement and transitional, transitory or saving provisions would be subject to Assembly procedure. This is unusual. The Assembly has already approved the subject matter of the Act by passing it, such that further scrutiny would not, I believe, be appropriate. The standard approach is that commencement orders are not subject to any procedure, on the basis they are giving effect to provisions already approved by the Assembly. The same reasoning applies to, in particular, transitional, transitory or saving provisions, which are included in a commencement order to ensure the proper operation of the Act being brought into force, and ensure it is clear when the old law and new law apply. Therefore my first concern relates to the *principle* of whether a commencement order should be subject to Assembly procedure.
- b. My second concern is in relation to its practical application; it is not clear what the procedure would be if the Assembly passed a motion for annulment, by virtue of the order being subject to the negative procedure, once any commencement order had been made and had come into force. The Welsh Ministers would have to lay an order revoking the commencement order; this would not affect the validity of anything done whilst the provision was in force, and would not have the effect of 'undoing' the commencement, but would remove the effect of any transitional provisions which would leave the position of those persons affected by the law very unclear.
- c. Thirdly, section 14(3) refers to an order under section 14(2)(b), however, the power to create the order is contained in section 14(1)(a).
- d. Finally, section 14(4) of the Bill provides that provisions will come into force in January 2018 if not in force at that time. This is a restriction on the Welsh Ministers' powers to decide when the circumstances are right to commence the provisions of the Bill. I do not support this provision.

22. I do not consider this commencement provision as drafted is appropriate.

Matters of legislative competence

23. The provisions of the Bill, particularly as drafted, do need careful consideration to determine whether they might potentially fall with the following express exception in Schedule 7 to the Government of Wales Act 2006, namely "Financial services, including investment business, banking and deposit-taking, collective insurance schemes and insurance". I note simply at this point that the Explanatory Memorandum contains no such analysis.

Bethan Jenkins

Aelod Cynulliad dros
Orllewin De Cymru

Assembly Member for
South Wales West



Cynulliad National
Cenedlaethol Assembly for
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David Melding AM
Chair
Constitutional & Legislative Affairs Committee
National Assembly for Wales
Ty Hywel
Cardiff
CF10 3NP

Thursday, September 25, 2014

REF: BJDH-DM-CLAC-25-09-14

Dear David,

Financial Education and Inclusion (Wales) Bill – evidence to the Constitutional and Legislative Affairs Committee

Thank you for your letter and for calling me to give evidence before your committee on Monday, September 22, 2014. If I may take your points as you list them:

Section 12 (Information about sources of advice)

Section 12(2) is a power for local authorities to provide advice to individuals about financial management.

I recognise that the Assembly has no legislative competence in the area of “financial services” as this is specifically excluded under Heading 4 in Schedule 7 to the Government of Wales Act 2006 (“GOWA”).

However, I am advised and satisfied that the power set out in Section 12(2) relates to the powers and duties of local authorities and their members and officers and is therefore within competence in accordance with Heading 12 in Schedule 7 to GOWA.

I emphasise that this is a power. No local authority will be compelled to exercise this power.

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Section 14 (Commencement)

This is provided for in Section 14.

Section 14(1) provides that an order is necessary to commence the Bill. Section 14(3) provides that, where an order includes incidental, consequential or transitional provisions, it will be subject to Assembly scrutiny.

It is my intention that only those commencement orders which include incidental, consequential or transitional provisions will be subject to scrutiny. In all other cases, there will be no Assembly scrutiny of commencement orders.

I am advised that the wording of section 14(1) is sufficient to meet this objective. However, in an effort to ensure that all doubt is removed, I am willing to bring forward an amendment, at Stage Two, so that section 14(3) will read as follows (or words to the following effect):

*“A statutory instrument **under section 14(1)** containing an order under section 14(2)(b) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”*

On further reflection, I have also come to the view that the proper form of scrutiny of an order including incidental (etc) provisions, would be by affirmative procedure. I am, therefore, willing to bring forward an amendment to the Bill, to this effect, at Stage Two.

It may assist the Committee if I make a few additional points which were discussed during our meeting.

Section 9(1)

The Minister has made the point that local authorities have “well-being” powers under Section 2 of the Local Government Act 2000 (“the 2000 Act”). The Minister asserts that local authorities could use those powers to promote financial inclusion.

While this may be true, provision across Wales is patchy. My intention is to make it a requirement for local authorities to promote financial inclusion. For this reason, the Bill imposes a duty on local authorities. I do not propose to take away the existing powers of local authorities. I welcome the steps taken by those councils which have

Bethan Jenkins

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Assembly Member for
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already “signed up” to the principles of the Bill. But I want to ensure that all communities in Wales benefit from the same pro-active approach.

The Committee may be interested in the circumstances in which the ministerial power in section 9(2) might be used at some future point. This is the power to add to or remove from the list of areas (set out in section 9(1)) which local authorities must include in a financial inclusion strategy.

I want local authorities to tackle the issues which I believe most acutely affect our communities in 2014. For instance, cold-calling, especially when practised against vulnerable groups, is a major concern. Equally, I believe that credit unions are of significant benefit, especially to those in deprived communities. In future, we may see (and I hope we will) a greater take-up of membership of credit unions. We may also see the UK Parliament tackling cold-calling (which the Assembly cannot do because it falls into the non-devolved area of “consumer protection”).

So, in future, the financial pressures faced by our communities may be different than they are now. In that case, the content of Section 9(1) may need to be updated to list new areas of concern and perhaps even to delete those where the harm has been significantly alleviated.

I want this Bill to become law and to endure long into the future. So, it is not realistic for me to predict in 2014 what financial pressures our communities may face (or what other legal or technological changes there may be) in 10, 20 or 30 years. That is why I propose to give Ministers the flexibility to update section 9(1), but with full Assembly scrutiny.

Section 10

The Committee may also be interested in hearing my further thoughts on Section 10, which is the power to issue ministerial guidance about financial inclusion strategies.

Ministers have existing powers to issue guidance to local authorities under Section 3(5) of the Local Government Act 2000 in respect of the exercise of their well-being powers. But I would make the point that the 2000 Act does not specifically refer to financial inclusion. So, I want to make it crystal clear, in legislation, that Ministers may issue guidance in this area.

I look forward to hearing back from you.

Kind Regards,

A handwritten signature in black ink, appearing to read 'Bethan Jenkins', with a large, stylized initial 'B'.

PP Bethan Jenkins AM

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Agenda Item 3

Jeff Cuthbert AC / AM

Y Gweinidog Cymunedau a Threchu Tlodi
Minister for Communities and Tackling Poverty



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref GB/21/14
Mr Alun Ffred Jones AM
Chair of the Environment & Sustainability Committee
National Assembly for Wales
Cardiff Bay
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CF99 1NA

8 July 2014

Dear Alun,

WELL-BEING OF FUTURE GENERATIONS (WALES) BILL

To support the Committee's scrutiny of the Well-being of Future Generations (Wales) Bill which I introduced into the National Assembly for Wales on 7 July, please find attached a statement of policy intent. This document provides information on the policy intent for the delegated powers within the Bill, if enacted. An implementation timeline is included in the document, which assumes that Royal Assent will be achieved in spring 2015.

I trust Members will find this document helpful and I look forward to providing evidence to the Committee in due course.

Yours sincerely

Jeff Cuthbert AC / AM

Y Gweinidog Cymunedau a Threchu Tlodi
Minister for Communities and Tackling Poverty

CC: Chair of the CLA Committee



Llywodraeth Cymru
Welsh Government

WELL-BEING OF FUTURE GENERATIONS (WALES) BILL

Policy intent for regulations, directions and
guidance

July 2014

WELL-BEING OF FUTURE GENERATIONS (WALES) BILL 2014 POLICY INTENT FOR SUBORDINATE LEGISLATION, DIRECTIONS AND GUIDANCE

This document provides an indication of the current policy intention for the subordinate legislation, directions and guidance that the Welsh Ministers are empowered or required to make under the provisions of the Well-being of Future Generations (Wales) Bill ('the Bill'). It has been published in order to assist the responsible Committee during the scrutiny of the Bill and should be read in conjunction with the Explanatory Memorandum and Explanatory Notes.

The key purposes of the Bill are:

To strengthen existing governance arrangements for improving the well-being of Wales in order to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (the sustainable development principle). It identifies well-being goals which specified public authorities are to seek to achieve in order to improve the well-being of Wales both now and in the future;

To set out how those authorities are to show that they are working towards the well-being goals. It also, through the introduction of national indicators, ensures that the difference being made to the well-being of Wales will be evaluated and measured;

To establish a Future Generations Commissioner for Wales to be an advocate for future generations who will advise and support Welsh public bodies in carrying out their duties under the Bill;

To put Local Service Boards (to be known as Public Services Boards) and well-being plans on a statutory basis and simplify current requirements as regards integrated community planning;

Apart from some technical provisions, the Bill will be commenced by Order. A diagram outlining the intended timelines for the implementation of the framework set by the Bill is at page 9. It should be noted that there are likely to be changes in the local government sector as a result of the public service reform agenda, including the report of the Commission on Public Service Governance and Delivery. Therefore some of these timelines might be subject to change.

Section	Description	Policy intention
Wellbeing Goals		
6 (3)	The Welsh Ministers have the power to add, remove or amend the well-being goals provided for in the Bill.	<p>The well-being goals are set out on the face of the Bill and it is intended that, once established in law, they will only be added to, removed or amended if there is a significant change or prioritisation of the long-term generational (sustainability) challenges arising in the future for Wales.</p> <p>The 'Future Trends' Report published by the Welsh Ministers and 'Future Generations Report' and any recommendations published by the Commissioner for Future Generations will be drawn on to judge whether amendments to the well-being goals are needed. There will also be consultation with the Commissioner, the other public bodies listed in the Bill and more generally, as required by Section 6(4) of the Bill, before the regulations to amend the goals are made.</p>
Guidance on the SD Duty		
15	The Welsh Ministers are under a duty to issue guidance to the other public bodies listed in the Bill about the exercise of functions under Part 2 of the Bill	<p>It is planned that the guidance will provide further detail covering:</p> <ol style="list-style-type: none"> 1) The well-being goals, namely: <ul style="list-style-type: none"> • interpretation of the goals; • the interaction and relationships across the goals and between the goals and the activities of the bodies; 2) How public bodies comply with the duty in respect of the process for setting their well-being objectives and preparing the 'statement' required to support the objectives; 3) Application of the sustainable development principle and the five governance approaches by public bodies when setting and achieving their well-being objectives. 4) The approach public bodies should adopt when preparing the annual report on their progress against their well-being objectives; 5) The purpose of the national indicators and how public bodies can utilise these indicators when setting their well-being objectives and reporting annually on their progress against those objectives.
Future Generations Report		
21 (8)	The Welsh Ministers can amend the	The reporting period is set out on the face of the Bill, and is linked to the

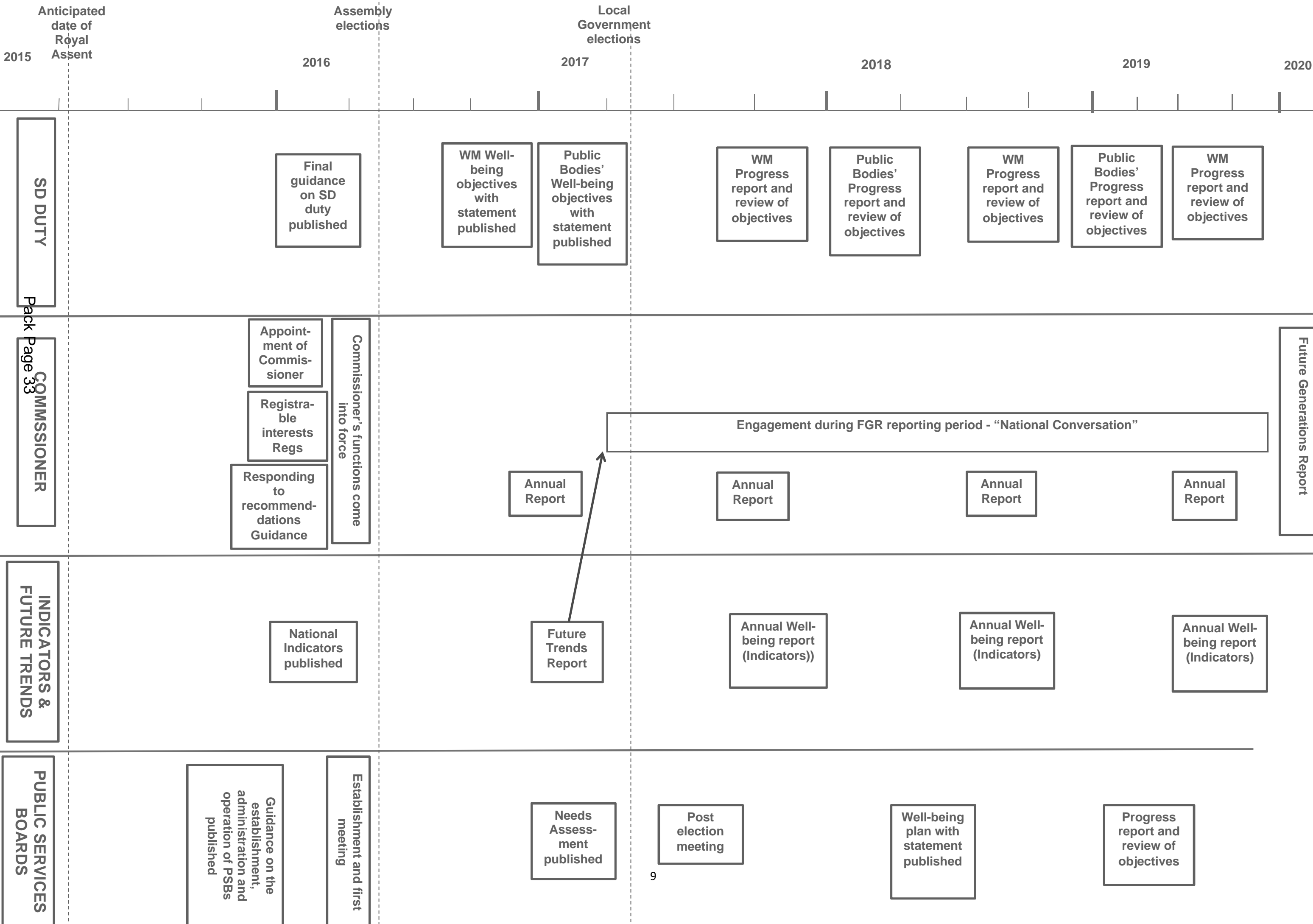
	definition of the 'reporting period' in which the Future Generations Report must be prepared and published.	Assembly electoral cycle. If the length of the electoral cycle changes in the future, there might be a need to change the reporting period as otherwise it would be too short or too long.
Future Generations Commissioner		
20(2)	The Welsh Ministers can issue guidance to other public bodies about how to respond to recommendations made by the Future Generations Commissioner.	The policy intention is that this guidance will cover the process and potential means for responding to recommendations made by the Commissioner. The guidance is likely to cover: Why a response is needed and how it will support the work of the Commissioner and the wider aims of the Bill; Who must respond to the Commissioner's recommendation, including any approval arrangements; The way that any response should be conveyed to the Commissioner; When a response should be issued to the Commissioner; The type of information that should be contained within that response; and What are the consequences if public bodies do not respond or the response provided is considered unsatisfactory.
Schedule 2, paragraph (12)(2)(a)	The Welsh Ministers can specify what interests are considered to be 'registrable interests' and must therefore be declared by the Future Generations Commissioner of Wales in their register of interests.	The policy intention is that these Regulations will be made around the time of the appointment of the first Commissioner under the Bill. The interests specified will be consistent with those prescribed for the Welsh Language Commissioner in SI 2012/753.
Schedule 2, paragraph 19 (1)(b)	The Welsh Ministers can issue directions, with the consent of the Treasury, about how the Commissioner's accounts should be prepared	The Bill makes the Commissioner the accounting officer for the office of the Commissioner, and therefore answerable for the propriety and regularity of the public finances of that office. The Welsh Ministers issue periodic Accounts Directions to relevant Accounting Officers specifying the requirements in relation to their annual accounts, covering their form and content, and the methods and principles according to which they are to be prepared. In issuing the directions, the Welsh Ministers seek to ensure that good practice is followed.
Public Services Boards		
31(1)	The Bill gives the Welsh Ministers the power to amend the list of statutory members, invited participants or other partners of	The members, invitees and partners are listed on the face of the Bill. It is intended that, once established in law, this power would generally only be used to change the list if there is a significant change of circumstance,

	Public Service Boards.	such as the creation of new statutory bodies that have a role in improving the well-being of communities, in the future. It could also be changed if there was change in the title or description of a listed body. There will be consultation with the members of the relevant PSB and with any person whom it is proposed to add to the list before any regulations under this section are made.
33(1)	The Welsh Ministers can refer matters relating to Public Services Boards to the relevant local authority overview and scrutiny committee for consideration.	It is considered essential that the Welsh Ministers have a role in monitoring the work of the Public Services Boards (PSBs), in particular, the quality of the assessments of local well-being and well-being plans that are produced, and that there is a mechanism in place for them to seek to secure improvement in the well-being plans where the Welsh Ministers consider them not to be up to standard. The power to refer matters to the overview and scrutiny committee will ensure that the integrity of local government scrutiny is maintained. PSBs will be scrutinised by their own local government scrutiny committee. This is to ensure that concerns over matters including poor performance of PSBs, whether isolated incidents or more long-running issues are dealt with at a local level, rather than being prescribed by the Welsh Ministers. If the Welsh Ministers are aware of such matters, they can refer such matters to a scrutiny committee which will then provide a report to the Welsh Ministers. This will represent clear accountability for PSB members that has thus far been sporadic in relation to Local Service Boards.
46(2) 47(2)	The Welsh Ministers can issue directions requiring two or more Public Services Boards to merge or collaborate if this is considered beneficial to improving the economic, social or environmental well-being of the Boards' areas.	These powers would be used in limited circumstances where issues such as operational efficiency, economies of scale, and circumstances where the need to match boundaries with another service provider mean that a merger/collaboration would be the best way of delivering services for the area. For example, the joint boundaries of the Rhondda Cynon Taff and Merthyr Local Service Board (LSB) areas are coterminous with those of Cwm Taf Local Health Board (LHB). Therefore, for important matters relating to health and social care, the two LSBs have determined to work together with the LHB, as the LHB does not take account of the boundaries of the two principal council areas when planning its provision. A similar

		arrangement is also now being established in Cardiff and the Vale for the same reasons.
49 (1)	The Welsh Ministers can set indicators and standards in relation to measuring the performance of Public Services Boards.	The policy intention is that this power would only be used if there is a need to ensure that data on performance in relation to specific processes or activities in specific areas relating to integrated community planning can be collected and monitored. This might be needed in order to add further consistency to the way performance is measured across the public sector. There will be consultation with the members of the relevant PSB or those persons that the Welsh Ministers consider to represent those members and with any person the Welsh Ministers feel it is appropriate to consult.
50	The Welsh Ministers can issue guidance to Public Services Boards about the exercise of functions under Part 4 of the Bill	It is policy intention to publish the guidance prior to the duties relating to Public Services Boards being brought into force. It is proposed that a consultation be undertaken on the draft guidance prior to its publication. It is intended to use this guidance to ensure Public Services Boards are provided with the necessary support and direction to implement the provisions of Part 4 of the Bill in a consistent and robust manner. It is planned that the guidance will provide further detail about the practical arrangements for preparing the assessments of local well-being and local well-being plan and the areas to be covered in the assessment and plan..
Local Well-being Plans		
35(5)(a)	This power will give the Welsh Ministers the ability to determine the communities that comprise the area of a Public Services Board	The main considerations for determining communities may vary significantly from place to place. There can be considerable variation between different parts of the area of a Public Services Board, for instance, between urban and rural areas. The policy intention is that communities that comprise the area of a board are to be determined in accordance with regulations made by the Welsh Ministers or, if no such regulations have been made, by the Public Services Boards.
36(3)(h)	This power will give the Welsh Ministers the ability to prescribe other reviews or assessments (beyond those prescribed on the face of the Bill) which a Public Services Board must take into account in preparing its assessment of well-being.	The reviews and assessments that must be taken into account are listed on the face of the Bill and it is intended that additional requirements will only be prescribed if there is a subsequent change in the law in relation to the preparation of assessments such as the creation of a new statutory assessment.
39(3)	The Welsh Ministers can amend the	The threshold is set out on the face of the Bill and reflects an existing

	threshold for community councils to become subject to a duty to take all reasonable steps towards meeting the well-being objectives included in the local well-being plan for its area.	threshold in respect of community councils, as provided for in regulations made under section 39 of the Public Audit (Wales) Act 2004. At the time of introduction these were the Account and Audit (Wales) Regulations 2005 as amended by the Account and Audit (Wales) (Amendment) Regulations 2010. It is intended that this regulation making power would generally only be used to amend the threshold in the Bill should the relevant provisions in the regulations under the Public Audit (Wales) Act 2004 be amended. However, the threshold may also be amended to reflect changes to the community council sector that may result from the work resulting from Commission on Public Service Governance and Delivery. There will be consultation with the Future Generations Commissioner, the community councils that would become subject to this duty if the threshold is changed and any other appropriate persons before the regulations are made.
39(7)	The Welsh Ministers are under a duty to issue guidance to those community councils who are subject to the duty to take all reasonable steps towards meeting the objectives contained in the relevant local well-being plan.	It is planned that the guidance will provide further detail covering: 1) The role community councils can undertake in contributing to the well-being plan of the Public Services Board for their area; 2) The approach community councils should adopt when preparing the annual report on their progress against the well-being plan.
43(2)	The Welsh Ministers can direct a Public Services Board to review its local well-being plan	It is anticipated that the annual reviews undertaken to produce the progress reports will be sufficient to monitor the effectiveness of each Public Services Board and its well-being plan, and the service delivery arrangements made thereunder. However, exceptional circumstances might arise during the life-time of a plan, for example, significant changes in the political or administrative structure of a statutory member or external factors such as a severe economic crisis which may require a wholesale review of the plan. The Welsh Ministers must publish their reasons for giving any direction under this section.
Public Bodies		
51 (1)	The Welsh Ministers can amend the list of Welsh public bodies specified in the Bill.	The organisations that will be subject to the provisions of Parts 1 and 2 of the Bill are defined as 'public bodies' for the purposes of the Bill and listed

		<p>on the face of the Bill.</p> <p>These public bodies were selected by assessing those organisations in Wales who undertake functions of a public nature which relate to devolved matters against a set of policy criteria. This power would be used where new organisations (i.e. a new Welsh Government Sponsored Bodies) were established which met the criteria to be a public body for the purposes of the Bill. The power would also be used to remove an organisation from the list of public bodies if that organisation was abolished.</p> <p>There will be consultation with the Future Generations Commissioner, any person to be added to the list and any other appropriate persons before the regulations are made.</p>
General		
52 (1)	The Welsh Ministers can make supplementary, incidental, consequential, transitional or saving provisions in order to give full effect to a provision of the Bill	This power would only be used for such matters as making changes to other legislation needed in consequence of the provisions of this Bill, or to deal with unforeseen details arising out of the implementation of the new system. Transitional, saving and consequential elements are designed to cater for the process of moving from one regime to another, so that the process is as “seamless” as possible and that the new law works.
55(3)	This provision enables the Welsh Ministers to bring the provisions of the Bill into force.	The policy intention is that there will be a small number of commencement orders. The intended implementation timetable for the Bill is set out in the table on page 9



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Agenda Item 4

Constitutional and Legislative Affairs Committee
Statutory Instruments with Clear Reports
6 October 2014

**CLA448 The Town and Country Planning (Determination of Procedure)
(Wales) Order 2014**

Procedure: Affirmative

This Order makes provision in relation to Wales which corresponds to section 196 of and Schedule 10 to the Planning Act 2008. Section 196 made provision for the Secretary of State to determine the procedure for certain proceedings.

Article 2 amends the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990. It does so in each case so as to require the Welsh Ministers to determine the procedure by which certain proceedings under that Act should be considered.

The Explanatory Memorandum refers to three other statutory instruments. These Regulations cannot be made until this Order has been made following the debate. Nevertheless, the Memorandum helpfully explains the intention and the context.

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Agenda Item 5.3

By virtue of paragraph(s) ix of Standing Order 17.42

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